



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 4, 1998

Mr. John Steiner
Division Chief-Law Department
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR98-2944

Dear Mr. Steiner:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120132.

The Austin Police Department (the "department") received a request for a copy of a 911 tape and the transcript of any 911 calls placed from a particular address during a specified time period. You submitted to this office for review the information responsive to the request, including a copy of the 911 tape recording. You contend that the tape recording and other information at issue is protected from disclosure under sections 552.103 and 552.108 of the Government Code. We note initially that the submitted records include what appear to be issued press releases. As these documents have already been publicly released, they must be provided to this requestor. Gov't Code § 552.007(b). We will address your arguments concerning the remaining documents and the tape recording.

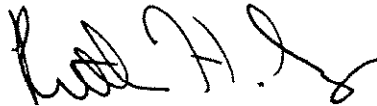
Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. Section 552.108(c) provides that basic offense report information is not protected from disclosure under section 552.108. Basic information is the type of information that is generally included on the front page of offense and arrest reports. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

Since you assert that there is an ongoing investigation and pending criminal charges, we agree that section 552.108(a)(1) protects the 911 tape recording and other records, except

for the basic offense and arrest report information. Open Records Decision No. 216 at 3 (1978) (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests). As the information may be withheld from disclosure under section 552.108, we need not address your other argument that the information is excepted from disclosure under section 552.103. We note that the department has discretion under the Open Records Act to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written in a cursive style.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 120132

Enclosures: Submitted documents

cc: Mr. Ralph Haurwitz
Austin American Statesman
P.O. Box 670
Austin, Texas 78760-0670
(w/o enclosures)